

MAY 10 2004

OFFICIAL PATENT
Docket No. 56733US002

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): MITTLESTADT et al.) Group Art Unit: 3743
)
Serial No.: 09/888,732) Examiner: Azadeh Kokabi
Confirmation No.: 2092)
)
Filed: 25 June 2001)
)
For: RESPIRATOR VALVE

RESPONSE

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

The Office Action mailed 10 February 2004 has been received and reviewed. The pending claims are claims 1, 3, 7-11, 13-21, 34-46, 49-53, and 56.

Reconsideration and withdrawal of the rejections in view of the following comments are respectfully requested.

Allowable Subject Matter

Applicants thank the Examiner for indicating that claims 34-42 are allowable. Applicants note, however, that while these claims were indicated as allowable in the text of the Office Action at page 4, this indication was not made on the Office Action Summary page. Applicants, therefore, respectfully request an amended Office Action Summary page indicating that claims 34-42 are allowed to be returned with the next Official Action.

Response

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Provisional Nonstatutory Double Patenting Rejection

The Examiner provisionally rejected claims 1, 3, 7-11, 13-21, 43-46, 49-53, and 56 under the judicially created doctrine of obviousness-type double patenting over claims 1-18 of copending U.S. Patent Application No. 09/888,943, indicating that the subject matter claimed in the instant application is fully disclosed in the copending application and would be covered by any patent granted on that copending application.

Applicants respectfully point out that the provisional double patenting rejection of claims 1, 3, 7-11, 13-21, 43-46, 49-53, and 56 is the only rejection remaining in the present application. Furthermore, U.S. Patent Application No. 09/888,943 has neither issued as a patent nor has been allowed. Thus, pursuant to M.P.E.P. § 804(I)(B), the examiner should withdraw the rejection and permit the present application to issue as a patent.

The Examiner is, therefore, respectfully requested to reconsider and withdraw the provisional rejection of claims 1, 3, 7-11, 13-21, 43-46, 49-53, and 56 under the doctrine of obviousness-type double patenting over copending U.S. Patent Application No. 09/888,943 and allow pending claims 1, 3, 7-11, 13-21, 34-46, 49-53, and 56 to proceed to allowance.

Summary

It is respectfully submitted that the pending claims 1, 3, 7-11, 13-21, 34-46, 49-53, and 56 are in condition for allowance and notification to that effect is respectfully requested.

Response

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The Examiner is invited to contact Applicants' Representatives, at the below-listed telephone number, if it is believed that prosecution of this application may be assisted thereby.

Respectfully submitted for
MITTLESTADT et al.

By
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10 MAY 2004

Date

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CERTIFICATE UNDER 37 CFR §1.8:

The undersigned hereby certifies that the Transmittal Letter and the paper(s), as described hereinabove, are being transmitted by facsimile in accordance with 37 CFR §1.6(d) to the Patent and Trademark Office, addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 10th day of May, 2004, at 12:35 PM (Central Time).

By: KWRL Name: KEVIN W. RAASCH